

AMENDED IN SENATE JANUARY 17, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 13, 2005

**SENATE BILL**

**No. 362**

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**Introduced by Senator Torlakson**

February 17, 2005

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An act to amend Sections 51222 and 51241 of, and to add Article 9.5 (commencing with Section 44620) to Chapter 3 of Part 25 to, the Education Code, relating to physical education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 362, as amended, Torlakson. Physical education.

(1) Existing law establishes various professional development and training programs for certificated employees of local educational agencies.

This bill would establish the Physical Education Professional Development Program, to be administered by the Superintendent of Public Instruction with the approval of the State Board of Education. Under the program, a school district that maintains kindergarten or any of grades 1 to 8, inclusive, would be eligible to apply for, and to receive, and the Superintendent would be authorized to allocate, incentive funding, upon the submission of a proposal, as specified, to provide training in physical education to no more than one teacher at the school district, through professional development programs conducted by institutions of higher education or by a provider of

training approved by the department. The bill would appropriate an unspecified sum for these purposes.

Existing law requires a pupil in grades 7 to 12, inclusive, to attend physical education courses for no less than 400 minutes each 10 schooldays.

This bill would define a physical education class as one in which each pupil is required to actively participate.

Existing law permits a pupil in grade 10, 11, or 12 to be excused from physical education classes, as provided, in order to participate in automobile driver training.

This bill would delete those provisions.

Existing law authorizes the governing board of a school district and the office of the county superintendent of schools to grant a permanent exemption from courses in physical education if the pupil complies with one of several criteria, including, among others, that the pupil is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer.

This bill would delete that exemption with respect to a pupil who is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer, and would make conforming changes.

*Existing law, beginning on July 1, 2007, authorizes the governing board of a school district or the office of the county superintendent of schools to grant an exemption from courses in physical education for 2 years, any time during grades 10 to 12, inclusive, to a pupil who passes a physical performance test, as specified.*

*This bill would require a governing board of a school district to allow a pupil who fails the physical performance test to retake it annually upon the request of the pupil, and would declare it is the Legislature's intent that a pupil that fails the test be enrolled in a physical education course designed to lead to that pupil's passage of the test. By requiring school districts to perform additional duties, the bill would impose a state-mandated local program.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) A lack of adequate physical activity and appropriate  
4 nutrition has greatly contributed to the epidemic levels of obesity  
5 found in California.
- 6 (b) Obesity is a key risk factor associated with a number of  
7 health problems including heart disease, diabetes, some cancers,  
8 hypertension, gallbladder disease, musculoskeletal disorders, and  
9 mental health.
- 10 (c) According to the State Department of Health Services, the  
11 costs of obesity in California are estimated to equal more than  
12 \$21.7 billion in health care costs, workers' compensation costs,  
13 and lost productivity.
- 14 (d) According to the State Department of Education, healthy,  
15 active, and well nourished children are more likely to attend  
16 school and are more prepared and motivated to learn.
- 17 (e) Healthy children are also more likely to grow up to be  
18 healthy adults and are less likely to develop costly and harmful  
19 health problems.
- 20 (f) California's youth have the potential to advance the  
21 generational change necessary for reversing and preventing the  
22 devastating consequences of such an epidemic.
- 23 (g) Physical education can provide necessary physical activity  
24 while motivating a child to maintain healthy eating habits and to  
25 engage in regular physical activity as an aspect of one's lifestyle.
- 26 (h) The State Board of Education has recently adopted content  
27 standards for physical education, and, to the extent resources are  
28 available, it is the intent of the Legislature to provide physical  
29 education teachers with appropriate training that aligns with  
30 these standards.
- 31 SEC. 2. Article 9.5 (commencing with Section 44620) is  
32 added to Chapter 3 of Part 25 of the Education Code, to read:

Article 9.5. The Physical Education Professional  
Development Program

44620. (a) The Physical Education Professional Development Program is hereby established, and shall be administered by the Superintendent with the approval of the State Board of Education.

(b) It is the intent of the Legislature in enacting this article to provide professional development in physical education for no more than one teacher at each local educational agency that maintains kindergarten or any of grades 1 to 8, inclusive.

(c) This program is intended to serve teachers employed in public schools for the purpose of teaching physical education to pupils in kindergarten or any of grades 1 to 8, inclusive.

44621. As a condition of receipt of funds under the program, a local educational agency shall submit to the State Board of Education a certified assurance, signed by the appropriate local educational agency official and approved by the governing body of the agency, that contains its proposal that clearly demonstrates that the local educational agency's training curriculum was approved by the state board or that the local educational agency contracted with a provider whose training curriculum was approved by the state board.

44622. The State Board of Education shall only approve training curriculum that is consistent with state-adopted *physical education* model content standards ~~for physical education and with the and with physical education~~ curriculum frameworks ~~on physical education~~ for kindergarten and grades 1 to 8, inclusive, that are adopted by the state board.

44623. A local educational agency may receive up to \$\_\_\_\_, and no less than \$\_\_\_\_, for the training of the teacher who receives professional development on physical education under the program.

44624. The sum of \_\_\_\_ is hereby appropriated from the General Fund to the department for purposes of the program. Of the amount appropriated, the sum of \_\_\_\_ is available for expenditure in the 2006-07 fiscal year, and the sum of \_\_\_\_ is available for expenditure in the 2007-08 fiscal year.

1 44625. The State Board shall authorize the Superintendent to  
2 prepare, and the state board shall adopt, regulations for the  
3 implementation and monitoring of the program.

4 SEC. 3. Section 51222 of the Education Code is amended to  
5 read:

6 51222. (a) A pupil, except a pupil excused or exempted  
7 pursuant to Section 51241, shall be required to attend a physical  
8 education class for a total period of time of not less than 400  
9 minutes each 10 schooldays. A physical education class is one in  
10 which each pupil is required to actively participate.

11 (b) The governing board of a school district that maintains a  
12 high school and that elects to exempt a pupil from required  
13 attendance in physical education classes pursuant to subdivision  
14 (b) of Section 51241 shall offer that pupil a variety of elective  
15 physical education classes of not less than 400 minutes each 10  
16 schooldays.

17 SEC. 4. Section 51241 of the Education Code, as amended by  
18 Section 2 of Chapter 459 of the Statutes of 2003, is amended to  
19 read:

20 51241. (a) The governing board of a school district or the  
21 office of the county superintendent of schools of a county may  
22 grant temporary exemption to a pupil from courses in physical  
23 education, if the pupil is either of the following:

24 (1) Ill or injured and a modified program to meet the needs of  
25 the pupil cannot be provided.

26 (2) Enrolled for one-half, or less, of the course work normally  
27 required of full-time pupils.

28 (b) The governing board of a school district or the office of the  
29 county superintendent of schools may, with the consent of a  
30 pupil, grant the pupil exemption from courses in physical  
31 education for two years any time during grades 10 to 12,  
32 inclusive.

33 (c) The governing board of a school district or the office of the  
34 county superintendent of schools may grant permanent  
35 exemption from courses in physical education if the pupil  
36 complies with any one of the following:

37 (1) Is enrolled as a postgraduate pupil.

38 (2) Is enrolled in a juvenile home, ranch, camp, or forestry  
39 camp school where pupils are scheduled for recreation and

1 exercise pursuant to the requirements of Section 4346 of Title 15  
2 of the California Code of Regulations.

3 (d) A pupil exempted under subdivision (b) may not be  
4 permitted to attend fewer total hours of courses and classes if he  
5 or she elects not to enroll in a physical education course than he  
6 or she would have attended if he or she had elected to enroll in a  
7 physical education course.

8 (e) Notwithstanding any other law, the governing board of a  
9 school district may administer to pupils in grades 10 to 12,  
10 inclusive, the physical performance test required in 9th grade  
11 pursuant to Section 60800.

12 (f) This section shall remain in effect only until June 30, 2007,  
13 and as of that date is repealed, unless a later enacted statute, that  
14 is enacted before June 30, 2007, deletes or extends that date.

15 SEC. 5. Section 51241 of the Education Code, as added by  
16 Section 3 of Chapter 459 of the Statutes of 2003, is amended to  
17 read:

18 51241. (a) The governing board of a school district or the  
19 office of the county superintendent of schools of a county may  
20 grant temporary exemption to a pupil from courses in physical  
21 education, if the pupil is either of the following:

22 (1) Ill or injured and a modified program to meet the needs of  
23 the pupil cannot be provided.

24 (2) Enrolled for one-half, or less, of the work normally  
25 required of full-time pupils.

26 (b) (1) The governing board of a school district or the office  
27 of the county superintendent of schools may, with the consent of  
28 a pupil, if the pupil has passed the physical performance test  
29 administered in the 9th grade pursuant to Section 60800, grant  
30 the pupil exemption from courses in physical education for two  
31 years any time during grades 10 to 12, inclusive.

32 (2) Pursuant to Sections 51210, 51220, and 51222, physical  
33 education is required to be offered to all pupils, and schools are,  
34 therefore, required to provide adequate facilities and instructional  
35 resources for that instruction. In this regard, paragraph (1) shall  
36 be implemented in a manner that does not create a new program  
37 or impose a higher level of service on a local educational agency.  
38 Paragraph (1) does not mandate any overall increase in staffing  
39 or instructional time because, pursuant to subdivision (d), pupils  
40 are not permitted to attend fewer total hours of class if they do

not enroll in physical education. Paragraph (1) does not mandate any new costs because any additional physical education instruction that a local educational agency provides may be accomplished during the existing instructional day, with existing facilities. Paragraph (1) does not prevent a local educational agency from implementing any other temporary or permanent exemption authorized by this section.

(c) The governing board of a school district or the office of the county superintendent of schools may grant permanent exemption from courses in physical education if the pupil complies with either of the following:

(1) Is enrolled as a postgraduate pupil.

(2) Is enrolled in a juvenile home, ranch, camp, or forestry camp school where pupils are scheduled for recreation and exercise pursuant to the requirements of Section 4346 of Title 15 of the California Code of Regulations.

(d) A pupil exempted under paragraph (1) of subdivision (b) may not attend fewer total hours of courses and classes if he or she elects not to enroll in a physical education course than he or she would have attended if he or she had elected to enroll in a physical education course.

(e) Notwithstanding any other law, the governing board of a school district ~~may also administer to pupils~~ *shall give a pupil in grades 10 to 12, inclusive, who fails to pass the physical performance test required in 9th grade pursuant to Section 60800 the opportunity, annually and upon the request of the pupil, to retake the test.* A pupil who passes this physical performance test in any of grades 10 to 12, inclusive, is eligible for an exemption pursuant to subdivision (b).

(f) *It is the intent of the Legislature that a pupil who fails to pass the physical performance test required by Section 60800 and who is otherwise required to enroll in a course of physical education shall be enrolled in a physical education course designed to lead to that pupil's passage of the physical performance test.*

~~(f)~~

(g) This section shall become operative on July 1, 2007.

SEC. 6. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made*

1 *pursuant to Part 7 (commencing with Section 17500) of Division*  
2 *4 of Title 2 of the Government Code.*

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